



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

TO: Members, Public Disclosure Commission

FROM: Doug Ellis
Assistant Director

DATE: February 14, 2006

SUBJECT: Report on 45-Day Letter filed by Richard Pope against Dwight Pelz

On January 27, 2006, Richard Pope filed a 45-day Citizen Action Letter with the Office of the Attorney General and the King County and Thurston County Prosecutors' Office alleging that Dwight Pelz violated RCW 42.17.080 and RCW 42.17.090 by failing to timely report contributions and expenditures for his campaign for 2005 King County Council and RCW 42.17.095 for failing to report the disposition of surplus funds.

Specifically, Mr. Pope alleges that the 2005 Dwight Pelz King County Council campaign:

- 1) failed to timely file eight C-4 reports disclosing contribution and expenditure activities in 2002-2004.
- 2) failed to report the disposition of surplus funds.
- 3) failed to file 7-day and 21-day pre-primary and pre-general C-4 reports.
- 4) failed to include information about the open records inspection period on the candidate registration form.

On February 1, 2006 the Attorney General's Office requested that PDC staff investigate the complaint.

The investigation centered on:

- Review of applicable laws.
- Review of evidentiary documentation provided by Mr. Pope.
- Limited scope desk audit of the 2005 Pelz King County Council campaign
- Review of responses submitted by Mr. Pelz.

Applicable Laws

RCW 29A.20.021 Qualifications for filing, appearance on ballot.
RCW 42.17.080 Reporting of Contributions and Expenditures – Inspection of accounts.
RCW 42.17.090 Contents of report.
RCW 42.17.790 Prohibition on the use of contributions for a different office.

Candidate Campaign Committees

On April 3, 2002, Dwight Pelz filed a Candidate Registration Statement (PDC Form C-1) declaring his candidacy for re-election to the King County Council for the 2005 election.

On March 8, 2004, Mr. Pelz filed a Candidate Registration Statement (PDC Form C-1) declaring his candidacy for election to the Seattle City Council for the 2005 election.

RCW 29A.20.021(2) prohibits a person from filing for more than one office. The statute reads in part:

Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, no person may file for more than one office.

By filing a candidate registration (C-1) with the Commission declaring his intent to run for a position on the Seattle City Council, Mr. Pelz effectively abandoned his candidacy for King County Council on March 8, 2004. He reinforced this action by filing a declaration of candidacy in July 2005 for Seattle City Council.

Late Reporting – King County Council Campaign

The complaint alleges that the 2005 Pelz King County Council campaign committee failed to timely file five C-4 reports during the period between April 2002 and March 2004.

- April 2002 C-4 report was four days late. Contributions of \$4,033.00 and expenditures of \$1,115.99.
- June 2002 C-4 report was one day late. Contributions of \$1,082.00 all disclosed on C-3 reports. While a schedule A was not included, there were no expenditures to report, as noted on the C-4 report.
- January 2003 C-4 report was one day late. Contributions of \$500 and expenditures of \$116.67.
- March 2003 C-4 report was 29 days late. Expenditures of \$2,203.08.
- February and March 2004 C-4 report was timely. The campaign deposited accrued bank interest which would not trigger the filing of a C-4 report.

While four reports during this period were filed one to 29 days late, all information concerning the finances of the campaign was available to the public over two years before the 2005 election.

The complaint alleges the 2005 Pelz King County Council campaign committee failed to timely file three C-4 reports in May, July and August of 2004 when the campaign transferred funds to the Pelz campaign for Seattle City Council.

RCW 42.17.790 provides that a candidate can use campaign funds, including surplus funds, for a difference office with written approval of the contributor.

The 2005 Pelz King County Council campaign worked with the Seattle Ethics and Elections Commission to determine which contributions, with written permission from the contributor, could be transferred to the Seattle City Council campaign. The transfers were disclosed properly on C-3 reports filed by the Pelz Seattle City Council campaign.

C-4 reports indicating the monetary transfers from the inactive King County Council campaign were filed between 30 and 61 days late, but disclosed a year in advance of the 2005 election. A final C-4 report was filed February 7, 2006 disclosing the disposal of the final \$11,188.26 in surplus funds. The expenditures were made between August 30, 2005 and November 30, 2005.

Reporting by an Inactive Campaign

The complaint alleges the Pelz King County Council campaign did not file the 7-day or 21-day C-4 reports in 2005 as required by RCW 42.17.080 and failed to provide a contact or location where campaign books of account would be available for public inspection.

The King County Council campaign was inactive after March 8, 2004 and was not required to file the accelerated disclosure reports 21 and 7-days before the 2005 election or have its campaign books of account open for public inspection.

Staff Recommendation: The Pelz King County Council campaign became inactive for all intent and purpose on March 8, 2004 when Dwight Pelz filed a C-1 candidate registration indicating he was running for a position on the Seattle City Council.

The late C-4 reports were minor in nature and happened well before the 2005 election; information on transfers between campaign accounts, while reported between 20 and 61 days late by the inactive King County Council campaign, were accurately and timely filed by the Pelz Seattle City Council campaign and disclosed to the public well before the 2005 election; and the inactive King County Council campaign had no obligation to file 7-day and 21-day reports in 2005 or have its books of account open for public inspection.

Therefore, the allegations in question would not rise to the level of an enforcement action and merit a recommendation to the Office of the Attorney General that no further action be taken on this complaint.